

Elizabeth Yu
Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-2277

Allan Urgent
Assistant U.S. Attorney
District of New Jersey
970 Broad Street, 7th Floor
Newark, N.J. 07102
(973) 297-2079

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. _____

AIR PRODUCTS AND CHEMICALS, INC.,
AKZO NOBEL COATINGS, INC.,
ALCATEL-LUCENT USA INC.,
ARKEMA INC.,
ASHLAND INC.,
AVANTOR PERFORMANCE MATERIALS,
INC.,
AVERY DENNISON CORPORATION,
BASF CORPORATION,
BENJAMIN MOORE & CO.,
BER MAR MANUFACTURING CORP.,
BRISTOL-MYERS SQUIBB COMPANY,
BROWNING-FERRIS INDUSTRIES OF NEW
JERSEY, INC.,
CBS CORPORATION,
CHEMCOAT INC.,
CNA HOLDINGS LLC,
CONTINENTAL HOLDINGS INC.,
CYCLE CHEM, INC.,

COMPLAINT

CYTEC INDUSTRIES, INC.,)
 DRI-PRINT FOILS, INC.,)
 E. I. DU PONT DE NEMOURS AND COMPANY,)
 EXXON MOBIL CORPORATION/)
 EXXONMOBIL OIL CORPORATION,)
 GENERAL ELECTRIC COMPANY,)
 GLAXOSMITHKLINE, LLC,)
 GOODRICH CORPORATION,)
 HCR MANORCARE, INC.,)
 HOFFMANN-LA ROCHE, INC.,)
 HONEYWELL INTERNATIONAL INC.,)
 JOHN L. ARMITAGE & CO.,)
 JOHNSON & JOHNSON,)
 KIRKER ENTERPRISES, INC.,)
 L.E. CARPENTER & COMPANY,)
 LANXESS CORPORATION,)
 MACK TRUCKS, INC.,)
 MERCK & CO., INC.,)
 MOMENTIVE SPECIALTY CHEMICALS INC.,)
 NEPERA, INC.,)
 NEW ENGLAND LAMINATES CO., INC.,)
 NORTHROP GRUMMAN SYSTEMS)
 CORPORATION,)
 OCCIDENTAL CHEMICAL CORPORATION,)
 PAN TECHNOLOGY, INC.,)
 PERMACEL,)
 PFIZER INC,)
 PHARMACIA LLC,)
 REVLON CONSUMER PRODUCTS)
 CORPORATION,)
 ROHM AND HAAS COMPANY,)
 SEAGRAVE COATINGS CORP. (NJ),)
 SI GROUP, INC.,)
 SIEGFRIED (USA), INC.,)
 SIMON WRECKING COMPANY, INC., SIMON)
 RESOURCES, INC., & MID STATE)
 TRADING CO.,)
 THE DOW CHEMICAL COMPANY,)
 THE WARNER LAMBERT CO., LLC,)
 3M COMPANY,)
 TRANE U.S., INC.)
 UNION CARBIDE CORPORATION,)
 UNITED TECHNOLOGIES CORPORATION, and)

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.,)
)
Defendants.)
_____)

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Regional Administrator of the United States Environmental Protection Agency ("EPA") for Region II, alleges:

STATEMENT OF THE CASE

1. This is a civil action under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606, 9607. The United States seeks injunctive relief requiring defendants to perform the response actions selected in EPA's Record of Decision relating to the Operable Unit 3 remedy, signed on September 27, 2012, for the Scientific Chemical Processing Superfund Site located in the Borough of Carlstadt, Bergen County, New Jersey ("SCP Carlstadt Site" or "Site"). The United States also seeks to recover (a) past costs incurred by the United States in conducting response actions at the Site and (b) future response costs to be incurred by the United States with respect to the Operable Unit 3 remedy at the Site.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district under Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b), because the releases or threatened releases of

hazardous substances that give rise to this complaint occurred in this district and because the Site is located in this district.

DEFENDANTS

4. Air Products and Chemicals, Inc. is a company with an address of 7201 Hamilton Boulevard, Allentown, PA 18195-1501.

5. Akzo Nobel Coatings Inc. is a company with an address of 525 W. Van Buren, Chicago, IL 60137.

6. Alcatel-Lucent USA Inc. is a company with an address of 600 Mountain Avenue, Room 7D-401, Murray Hill, NJ 07974.

7. ARKEMA INC. is a company with an address, c/o Legacy Site Services LLC, of 468 Jones Way, Suite 150, Exton, PA 19341-2528.

8. Ashland Inc. is a company with an address of 5200 Blazer Parkway, Dublin, OH 43017.

9. Avantor Performance Materials, Inc. is a company with an address of 3477 Corporate Parkway, Center Valley, PA 18034.

10. Avery Dennison Corporation is a company with an address of 8080 Norton Parkway, Mentor, OH 44061.

11. BASF Corporation is a company with an address of 100 Park Avenue, Florham Park, NJ 07932.

12. Benjamin Moore & Co. is a company with an address of 101 Paragon Drive, Montvale, NJ 07645.

13. Ber Mar Manufacturing Corp. is a company with an address of 110 Third Avenue, Brooklyn, NY 11217.

14. Bristol-Myers Squibb Company is a company with an address of 6000 Thompson Road, East Syracuse, NY 13057.

15. Browning-Ferris Industries of New Jersey, Inc. is a company with an address, c/o Republic Services, Inc., of 18500 North Allied Way, Phoenix, AZ 85054.

16. CBS Corporation is a company with an address of 20 Stanwix Street, 10th Floor, Pittsburgh, PA 15222.

17. Chemcoat Inc. is a company with an address of 2790 Canfields Lane, Montoursville, PA 17754.

18. CNA Holdings LLC is a company with an address of 222 W. Las Colinas Blvd., Suite 900N, Irving, TX 75039.

19. Continental Holdings Inc. is a company with an address of 1025 Eldorado Blvd., Broomfield, CO 80021.

20. Cycle Chem, Inc. is a company with an address of 201 South First Street, Elizabeth, NJ 07206.

21. Cytec Industries Inc. is a company with an address of 5 Garret Mountain Plaza, Woodland Park, NJ 07424.

22. Dri-Print Foils, Inc. is a company with an address of 502 Carnegie Center, Room 201, Princeton, NJ 08450.

23. E.I. du Pont de Nemours and Company is a company with an address of 1007 Market Street, Wilmington, DE 19898.

24. Exxon Mobil Corporation/ExxonMobil Oil Corporation are companies with an address of 3225 Gallows Road, Fairfax, VA 22037.

25. General Electric Company is a company with an address of 640 Freedom Business Center, King of Prussia, PA 19406.

26. GlaxoSmithKline, LLC is a company with an address of Five Crescent Drive, Mail Code NY0300, Philadelphia, PA 19112.

27. Goodrich Corporation is a company with an address, c/o UTC Propulsion & Aerospace Systems, of One Financial Plaza, MS 523, Hartford, CT 06103.

28. HCR ManorCare, Inc. is a company with an address of 333 North Summit Street, Toledo, Ohio 43604.

29. Hoffmann-La Roche, Inc. is a company with an address of 340 Kingsland Street, Nutley, NJ 07110.

30. Honeywell International Inc. is a company with an address of 101 Columbia Road, Morristown, NJ 07962.

31. John L. Armitage & Co. is a company with an address of 545 National Drive, Gallatin, TN 37066.

32. Johnson & Johnson is a company with an address of One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

33. Kirker Enterprises, Inc. is a company with an address of 55 East 6th Street, Paterson, NJ 07524.

34. L.E. Carpenter & Company is a company with an address of 33587 Walker Road, Avon Lake, OH 44012.

35. LANXESS Corporation is a company with an address of 111 RIDC Park West Drive, Pittsburgh, PA 15275.

36. Mack Trucks, Inc. is a company with an address, c/o Volvo Group Sales & Marketing Americas, of 7900 Service Road, CC2/7, Greensboro, NC 27409.

37. Merck & Co., Inc. is a company with an address of Two Merck Drive – WS3W16E, Whitehouse Station, NJ 08889-0200.

38. Momentive Specialty Chemicals Inc. is a company with an address of 180 E. Broad Street, Columbus, OH 43215.

39. Nepera, Inc. is a company with an address, c/o Cambrex Corporation, of One Meadowlands Plaza, East Rutherford, NJ 07073.

40. New England Laminates Co., Inc. is a company with an address, c/o Park Aerospace Technologies Corp., of 486 North Oliver Rd., Building Z, Newton City/County Airport, Newton, KS 67114.

41. Northrop Grumman Systems Corporation is a company with an address of 2980 Fairview Park Drive, M/S: 12-16A, Falls Church, VA 22042-4511.

42. Occidental Chemical Corporation is a company with an address of 5005 LBJ Freeway, Suite 2200, Dallas, TX 75244.

43. Pan Technology, Inc. is a company with an address of 117 Moonachie Avenue, Carlstadt, NJ 07072.

44. Permacel is a company with an address of 300 Frank W. Burr Blvd, 5th Floor, Suite 66, Teaneck, NJ 07666.

45. Pfizer Inc is a company with an address of 235 East 42nd Street, New York, NY 10017.

46. Pharmacia LLC is a company with an address of 800 North Lindbergh Boulevard, Mailcode LC1B, Saint Louis, MO 63167.

47. Revlon Consumer Products Corporation is a company with an address of 237 Park Avenue, New York, NY 10017.

48. Rohm and Haas Company is a company with an address, c/o The Dow Chemical Company, of 3100 State Road, Croyden, PA 19021.

49. Seagrave Coatings Corp. (NJ) is a company with an address of 209 N. Michigan Ave., Kenilworth, NJ 07033.

50. SI Group, Inc. is a company with an address of 2750 Balltown Road, Schenectady, NY 12309.

51. Siegfried (USA), Inc. is a company with an address of 33 Industrial Park Road, Pennsville, NJ 08070.

52. Simon Wrecking Company, Inc., Simon Resources, Inc., and Mid State Trading Co. are companies with an address, c/o counsel Fox Rothschild, LLP, of Citizens Bank Center, 919 North Market Street, Suite 1300, Wilmington, DE 19899-2323.

53. The Dow Chemical Company is a company with an address of 3100 State Road, Croydon, PA 19021.

54. The Warner Lambert Co., LLC is a company with an address, c/o Pfizer Inc., of 235 East 42nd Street, New York, NY 10017.

55. 3M Company is a company with an address of 3M EHS, 3M Center, 224-05-W-17, St. Paul, MN 55144-1000.

56. Trane U.S., Inc. is a company with an address, c/o counsel William Schikora, Esq., of 125 Walnut Street, Northville, MI 48167.

57. Union Carbide Corporation is a company with an address of 3100 State Road, Croydon, PA 19021.

58. United Technologies Corporation is a company with an address of 9 Farm Springs, 1st Floor, Farmington, CT 06032.

59. Veolia ES Technical Solutions, L.L.C. is a company with an address of 125 South 84th Street, Suite 175, Milwaukee, Wisconsin 53214.

60. Each of the defendants listed in Paragraphs 4 through 59 above ("Defendants") is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

SITE BACKGROUND

61. The SCP Carlstadt Site is located in the Borough of Carlstadt, Bergen County, New Jersey. The Site includes the real property consisting of approximately 5.9 acres designated as Block 124, Lots 1, 2, 3, 4, and 5 on the official assessment map of the Borough of Carlstadt (the "SCP Carlstadt Property"), located at 216 Paterson Plank Road, Carlstadt, New Jersey, and any area into which hazardous substances have migrated therefrom.

62. During the 1960s and 1970s, Scientific Chemical Processing Inc. ("SCP") and Scientific Chemical Treatment Company, Inc. ("SCTC") operated industrial waste handling, treatment, and disposal enterprises at the Site. During this period, SCP and SCTC disposed of a wide variety of hazardous substances at the Site. These hazardous substances were generated by

many companies. The Defendants or their predecessors in interest were generators of materials containing hazardous substances that were disposed of at the Site and/or transporters of materials containing hazardous substances that were disposed of at the Site.

63. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, on September 8, 1983, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B.

64. On September 30, 1985, EPA issued Administrative Order On Consent No. II-CERCLA-50114 pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606. The September 30, 1985 Order required the respondents named in the Order to carry out a Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to 40 C.F.R. § 300.430. EPA has conducted response actions, including oversight, with regard to the RI/FS activities for the Site.

65. The response actions at the Site have been separated into three operable units. Operable Unit One ("OU1") addressed the interim remedy for the contaminated soil and shallow groundwater at the SCP Carlstadt Property ("interim fill area remedy"). Operable Unit Two ("OU2") addresses the final remedy for the contaminated soil and shallow groundwater at the SCP Carlstadt Property ("final fill area remedy") and is governed by a consent decree entered by the United States District Court for the District of New Jersey in September 2004 in United States v. 3M Company, et al., C.A. No. 2:04-cv-3331(HAA). Operable Unit Three ("OU3") pertains to the contaminated groundwater outside the SCP Carlstadt Property and beneath the shallow groundwater at the SCP Carlstadt Property.

66. During July 2012, the Defendants, with oversight from EPA, completed a Remedial Investigation (“RI”) Report and Feasibility Study (“FS”) Report for OU3.

67. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the OU3 FS and of the proposed plan for remedial action during August 2012, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action and held a public meeting on the proposed plan. EPA issued a Record of Decision on September 27, 2012, selecting the remedy for OU3.

FIRST CLAIM FOR RELIEF

68. Paragraphs 1 through 67 are realleged and incorporated herein by reference.

69. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances, and

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, . . . or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for —

(A) all costs of removal or remedial action incurred by the United States Government or a State . . . not inconsistent with the national contingency plan

70. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

71. Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been released at the Site, and/or there is a threat of such release at the Site, as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

72. The United States has incurred response costs responding to releases and threatened releases of hazardous substances with respect to the Site, a portion of which were incurred in regard to OU3. The United States will continue to incur response costs at the Site, including costs relating to OU3.

73. The costs incurred by the United States in connection with the Site, including those incurred in regard to OU3, were for actions taken in response to the release or threat of release of hazardous substances from the Site.

74. The United States' response actions taken with respect to the Site, including OU3, and the costs incurred incident to those actions were not inconsistent with the National Contingency Plan, which was promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605, and is codified at 40 C.F.R. Part 300 et seq.

75. The United States has satisfied any conditions precedent to the undertaking of response actions, the incurrence of response costs, and the recovery of those costs under Section 107 of CERCLA, 42 U.S.C. § 9607.

76. Each of the Defendants (1) is a person, or a successor in interest to a person, who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substance(s) owned or

possessed by such person, which were disposed of at the SCP Carlstadt Site, which was and is owned or operated by another party or entity and contains such hazardous substance(s) and/or (2) is a person, or a successor in interest to a person, who accepted hazardous substance(s) for transport to the SCP Carlstadt Site, which site was selected by such person. Each of the Defendants is therefore a liable party under Section 107(a)(3) or (a)(4) of CERCLA.

77. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the Defendants are jointly and severally liable to the United States for past costs incurred by the United States with regard to the Site and for future costs to be incurred by the United States with respect to OU3 at the Site. The United States seeks recovery of unreimbursed past response costs it has incurred with regard to the Site. The United States also seeks recovery of its future response costs to be incurred with respect to OU3 at the Site.

SECOND CLAIM FOR RELIEF

78. Paragraphs 1 through 77 are realleged and incorporated herein by reference.

79. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may . . . secure such relief as may be necessary to abate such danger or threat

80. The President, through his delegate, the Regional Administrator of EPA for Region II, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of a release of hazardous substances or a

threatened release of hazardous substances at and from the Site.

81. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), authorizes the United States to bring an action to secure such relief as may be necessary to abate a danger or threat at the Site. In the September 27, 2012 Record of Decision, EPA made a determination of the remedy necessary to abate the danger or threat with respect to OU3 at the Site.

82. Pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a), the Defendants are jointly and severally liable to perform the remedial actions identified in the September 27, 2012 ROD, which actions EPA has determined are necessary to abate the danger or threat with respect to OU3 at the Site.

PRAAYER FOR RELIEF

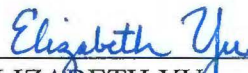
WHEREFORE, the United States respectfully requests that the Court:

1. Enter judgment against the Defendants, jointly and severally, for unreimbursed past response costs that United States has incurred in regard to the SCP Carlstadt Site, together with interest;
2. Enter a declaratory judgment on liability for response costs that will be binding in any subsequent action or actions to recover further response costs incurred by the United States with respect to OU3 at the SCP Carlstadt Site;
3. Order the Defendants, jointly and severally, to perform the remedy set forth in the Record of Decision, dated September 27, 2012, for OU3;
4. Award the United States its costs and fees; and,
5. Grant such other and further relief as is appropriate.

Respectfully submitted,



ELLEN M. MAHAN
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice



ELIZABETH YU
Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-2277

PAUL J. FISHMAN
United States Attorney
District of New Jersey

ALLAN URGENT
Assistant United States Attorney
District of New Jersey
970 Broad Street, 7th Floor
Newark, New Jersey 07102
(973) 297-2079

OF COUNSEL:

DAMARIS C. URDAZ
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, New York 10007-1866